

1 H.533

2 Introduced by Representative Grad of Moretown

3 Referred to Committee on

4 Date:

5 Subject: Crimes; crime victim notification

6 Statement of purpose of bill as introduced: This bill proposes to (1) require
7 victim notification upon offender discharge from probation; (2) require law
8 enforcement to notify victims of crimes when defendants are released with
9 conditions after arrest; and (3) require the State's Attorney to notify victims
10 when a defendant is released from the custody of the Department of Mental
11 Health.

12 An act relating to victim notification

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 ~~Sec. 1. 13 V.S.A. § 5305 is amended to read:~~

15 § 5305. INFORMATION CONCERNING RELEASE FROM
16 CONFINEMENT

17 (a) Victims, other than victims of acts of delinquency, and affected persons
18 shall have the right to request notification by the agency having custody of the
19 defendant before the defendant is released, including a release on bail or
20 conditions of release, furlough or other community program, upon termination

1 ~~or discharge from probation, or whenever the defendant escapes, is recaptured,~~
2 dies, or receives a pardon or commutation of sentence. Notice shall be given
3 to the victim or affected person as expeditiously as possible at the address or
4 telephone number provided to the agency having custody of the defendant by
5 the person requesting notice. Any address or telephone number so provided
6 shall be kept confidential.

7 (b)(1) If the defendant is released back into the community on conditions of
8 release after arrest, the investigating law enforcement agency shall inform the
9 victim of a listed crime of the conditions of release.

10 (2) If the defendant is released on conditions at arraignment, the
11 prosecutor's office shall inform the victim of a listed crime of the conditions of
12 release.

13 (c) If requested by a victim of a listed crime, the ~~department of corrections~~
14 Department of Corrections shall:

15 (1) at least 30 days before a parole board hearing concerning the
16 defendant, inform the victim of the hearing and of the victim's right to testify
17 before the parole board or to submit a written statement for the parole board to
18 consider; and

19 (2) promptly inform the victim of the decision of the parole board,
20 including providing to the victim any conditions attached to the defendant's
21 release on parole.

1 ~~(d) If the defendant is released from the custody of the Vermont~~
2 ~~Department of Mental Health, the Department shall notify the State's~~
3 ~~Attorney's office before the defendant is released for the purpose of victim~~
4 ~~notification by the State's Attorney's office.~~

5 Sec. 2. EFFECTIVE DATE

6 ~~This act shall take effect on passage.~~

Sec. 1. 13 V.S.A. § 5305 is amended to read:

*§ 5305. INFORMATION CONCERNING RELEASE FROM
~~CONFINEMENT CUSTODY~~*

(a) Victims, other than victims of acts of delinquency, and affected persons shall have the right to request notification by the agency having custody of the defendant before the defendant is released, including a release on bail or conditions of release, furlough or other community program, upon termination or discharge from probation, or whenever the defendant escapes, is recaptured, dies, or receives a pardon or commutation of sentence. Notice shall be given to the victim or affected person as expeditiously as possible at the address or telephone number provided to the agency having custody of the defendant by the person requesting notice. Any address or telephone number so provided shall be kept confidential.

(b) If the defendant is released on conditions at arraignment, the prosecutor's office shall inform the victim of a listed crime of the conditions of release.

(c) If requested by a victim of a listed crime, the ~~department of corrections~~ Department of Corrections shall:

(1) at least 30 days before a parole board hearing concerning the defendant, inform the victim of the hearing and of the victim's right to testify before the parole board or to submit a written statement for the parole board to consider; and

(2) promptly inform the victim of the decision of the parole board, including providing to the victim any conditions attached to the defendant's release on parole.

Sec. 2. 13 V.S.A. § 5314 is amended to read:

§ 5314. INFORMATION FROM LAW ENFORCEMENT AGENCY

** * **

(b) Information to victims of listed crimes. As soon as practicable, the law enforcement agency shall use reasonable efforts to give to the victim of a listed crime, as relevant, all of the following:

(1) Information as to the accused's identity unless inconsistent with law enforcement purposes.

(2) Information as to whether the accused has been taken into custody.

(3) The file number of the case and the name, office street address, and telephone number of the law enforcement officer currently assigned to investigate the case.

(4) The prosecutor's name, office street address, and telephone number.

(5) An explanation that no individual is under an obligation to respond to questions which may be asked outside a courtroom or deposition.

(6) Information concerning any bail or conditions of release imposed on the defendant by a judicial officer prior to arraignment or an initial court appearance.

Sec. 3. 13 V.S.A. § 5321 is amended to read:

§ 5321. APPEARANCE BY VICTIM

(a) The victim of a crime has the following rights in any sentencing proceedings concerning the person convicted of that crime, or in the event a proposed plea agreement filed with the court recommends a deferred sentence, at any change of plea hearing concerning the person charged with committing that crime:

(1) to be given advance notice by the prosecutor's office of the date of the proceedings; and

(2) to appear, personally, to express reasonably his or her views concerning the crime, the person convicted, and the need for restitution.

(b) ~~Sentencing~~ The change of plea hearing or sentencing shall not be delayed or voided by reason of the failure to give the victim the required notice or the failure of the victim to appear.

(c) In accordance with Court rules, at the sentencing or change of plea hearing, the Court shall ask if the victim is present and, if so, whether the victim would like to be heard regarding sentencing or the proposed deferral of sentencing. In imposing the sentence or considering whether to defer sentencing, the Court shall consider any views offered at the hearing by the victim. If the victim is not present, the Court shall ask whether the victim has expressed, either orally or in writing, views regarding sentencing or the proposed deferral of sentencing and shall take those views into consideration in imposing the sentence or considering whether to defer sentencing.

(d) At or before the sentencing hearing, the prosecutor's office shall instruct the victim of a listed crime, in all cases where the Court imposes a sentence which includes a period of incarceration, that a sentence of incarceration is to the custody of the Commissioner of Corrections and that the Commissioner of Corrections has the authority to affect the actual time the defendant shall serve in incarceration through good time credit, furlough, work-release, and other early release programs. In addition, the prosecutor's office shall explain the significance of a minimum and maximum sentence to

the victim and shall also explain the function of parole and how it may affect the actual amount of time the defendant may be incarcerated.

(e) At or before a change of plea hearing where the plea agreement filed with the court proposes a deferred sentence, the prosecutor's office shall instruct the victim of a listed crime about the significance of a deferred sentence and the potential consequences of a violation of conditions imposed by the court. In addition, the prosecutor's office shall consult with the victim concerning any proposed probation conditions prior to the hearing.

(f) The prosecutor's office shall use all reasonable efforts to keep the victim informed and consult with the victim throughout the plea agreement negotiation process in any case involving a victim of a listed crime.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2016.